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Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, Second Floor
Boston, MA 02110

RE: Enhanced 9-1-1 Surcharge, D.T.E. 06-33

Dear Secretary Cottrell:

On April 28, 2006, the Department of Telecommunications and Energy ("Department"), consistent with the mandate in the Acts of 2002, c. 239, § 3, voted to open an investigation to develop a long term plan for funding wireline E911 services. The Department indicated that this proceeding will identify and address any and all issues affecting the E911 system, including the equitable payment of the costs of the system by all its beneficiaries and the changes and projected changes in technology comprising the E911 system. The purpose of this proceeding is to develop recommendations to submit to the Legislature by December 31, 2006 pursuant the Requirements of the Acts of 2002, c. 239, § 3.

On May 17, 2006, the Statewide Emergency Telecommunications Board (SETB) submitted preliminary comments to the Department identifying issues affecting the E911 system. On July 28, 2006, Verizon Massachusetts, MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services, and MCI Communications Services, Inc. d/b/a Verizon Business Services (collectively, "Verizon") and SETB submitted proposals to the Department for a long-term funding plan. The Massachusetts Communications Supervisors Association (MCSA) also submitted a proposal to the Department. Pursuant to the procedural schedule, the Attorney General submits this letter as his reply comments on the proposals.

Introduction

In the early 1990's, Massachusetts established enhanced 911 service to facilitate emergency communications. Specifically, E911 service allows users of the public telephone system to reach a public safety answering point by dialing "911," and, in turn, allows the answering point to automatically identify the user's telephone number and location.¹

E911 service, along with three disability access programs, (relay services for hearing and speech impaired persons; specialized communications equipment distribution program for hearing, speech, vision and mobility impaired persons; and amplified handsets at pay telephones) were originally funded through directory assistance charges by charging telephone subscribers for each directory assistance call that exceeds a subscriber's monthly allowance of ten free calls. *Directory Assistance Charges*, D.P.U. 91-68 (1991). Initially, the revenues from directory assistance were sufficient to support E911 services and the disability access programs; however, due to a decline in directory assistance revenues, the Wireline E911 Fund began operating at an annual deficit in 1995.

In 2002, the Legislature directed the Department to establish a new funding mechanism for recovery of costs associated with the provision of E911 service and disability access programs. Acts of 2002, c. 239, § 1; G.L. c. 6A, § 18H½. In the D.T.E. 03-63, the Department approved an interim monthly surcharge on each voice grade residential and business line for the recovery of E911 expenses. The Department is currently reviewing and will establish a permanent E911 surcharge in D.T.E. 06-4, which will remain in effect until December 31, 2007.

The Legislature also required the Department to develop a long-term plan for funding E911. Acts of 2002, c. 239, § 3. In developing a long term plan for funding E911, the Legislature directed the Department to consider any and all issues affecting the E911 system, including the equitable payment of the costs of the system by all its beneficiaries and the changes and projected changes in technology comprising the E911 system. The Legislature directed the Department to submit its recommendations and assessments no later than December 31, 2006. On April 28, 2006, in accordance with the Legislative mandate, the Department voted to open this investigation to develop a long-term plan for funding wireline E911 services.

The Department Should Recommend Legislation That Creates a Single E911 Surcharge For All Carriers

The Attorney General supports the position of the Statewide Emergency Telecommunications Board (SETB), that the Department should recommend that the

¹ G.L. c. 166, § 14A; G.L. c. 6A, § 18A.

Legislature establish a single E911 surcharge applicable to all devices and technologies that can access the E911 system in the Commonwealth. *See SETB Proposal* at 4 (July 28, 2006). The funding plan must be flexible and broad enough to ensure that the surcharge can be collected from any device that can access the E911 system, whether it be wire-line, wireless, VoIP or some other technology. The revenue from the surcharge should be deposited into a single “Enhanced 911 Trust Fund” to pay for all necessary expenses for the SETB to operate the Massachusetts E911 system.

The SETB played a key role in developing a National Emergency Number Association’s Report², which sets forth seven basic principles to guide future E911 finding. The Department should adopt these principles and recommend that the Legislature craft new E911 legislation based on them. These principles are:

9-1-1 Funds must be used for 9-1-1 purposes

It is essential that government entities are held accountable in their collection and distribution of 9-1-1 funds and that SETB use the fees collected only for E911 purposes.

Funding from all access methods

The ultimate goal of the E911 is to ensure that all members of the public have access to emergency services anytime, anywhere, from any device. To achieve this goal, all users of communications services providing access to E911 must also pay into the E911 system.

Technology and competitively neutral

Whether the user places an E911 call on a wireline, wireless, cable, VoIP, broadband-over-powerline, satellite, or some other communications system connecting consumers to public networks, the E911 service SETB provides should be the same, and so should the fees to support it. Communications service providers must treat access to E911 as a cost of doing business.

Equitable allocation of revenues

The E911 surcharge is a universal fee and therefore all E911 surcharges should be consistent, regardless of where or how the service is being offered. The E911 fee should be equal across a state regardless of a customer’s billing location and relative to the operating costs of SETB.

² *Next Generation 9-1-1: Responding to an Urgent Need for Change*, March 2006.

A constantly evolving system focused on improving service levels

All Massachusetts Public Safety Answering Points (PSAPs) should have the same capabilities and ability to adapt to new technologies as they are developed. Future funding of the E911 program will require adequate resources to maintain and upgrade equipment.

Efficient, accountable operations

To ensure maximum efficiency, the proposed legislation must tie E911 funding to requirements that meet technical, operational, and efficiency standards.

Coordination, cooperation and collaboration

It is essential that government agencies at all levels of government, along with industry participants, work together in the spirit of cooperation, collaboration and good faith.

Conclusion

The Attorney General supports a single surcharge on all devices that access the 9-1-1 system in the Commonwealth for deposit in a single trust fund managed by the SETB.

Respectfully submitted,

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_____/s/_____
By: Jonathan B. Engel